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9 **UNITED STATES DISTRICT COURT**
10 **WESTERN DISTRICT OF WASHINGTON**

11 BRIAN D. WATSON,

12 Plaintiff,

Case No. C03-5503 JKA

13 v.

14 WYETH, et al.,

15 Defendants.
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SUPPLEMENTAL ORDER RE:
PLAINTIFF'S MOTION FOR ADDITUR
REGARDING TAX CONSEQUENCES
OF AWARD

18 THIS MATTER is before the court for final resolution of Plaintiff's Motion for Additur Regarding Tax
19 Consequences of Award.

20 Plaintiff sought damages for adverse tax consequences resulting from the receipt of a lump sum award
21 of lost pay in the sum of \$157,354, and the effect of an early withdrawal penalty on his 401k plan in the sum
22 of \$3,550. Plaintiff submitted the declaration of his expert, Certified Public Accountant, John Allen. (Docket
23 #132 – filed 4/28/05).

24 Defendant denied liability for the claimed adverse tax consequences, and alternatively submitted that
25 the adverse tax consequences resulting from the receipt of a lump sum award of lost pay would amount to
26 \$124,792. Defendant submitted the declaration of his expert, Certified Public Accountant, Thomas Sadler.
27 (Docket #143 – filed 4/09/05).
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1 With regard to the issue of liability, this court granted plaintiff's motion as to the lost pay portion of
2 the verdict, and denied it with regard to the consequences of an early withdrawal from plaintiff's 401k plan.
3 The court further advised counsel of his familiarity and personal involvement with both accounting firms with
4 whom their respective experts were associated, suggesting the parties consult with their experts and agree on
5 a third person to make a joint recommendation to the court as to the tax consequences of receiving the lost pay
6 in a lump sum award. (Docket #162 – filed 5/20/05)..

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8 Thereafter, the parties submitted a joint notice to the trial court that Steve Kessler had agreed to
9 prepare a summary of tax implications. (Docket #166 – filed 6/03/05).

10 On July 13, 2005, plaintiff's counsel filed with the court the Declaration of Richard H. Wooster
11 (plaintiff's counsel) and the Declaration of Steven J. Kessler, CPA, Regarding Independent Tax Analysis
12 Report Concerning Additur, dated June 16, 2005. (Docket #188). The analysis of Steven J. Kessler concludes
13 the additional tax liability related to the plaintiff's lost pay lump sum award is \$170,802.00 (Docket #188 –
14 filed 7/13/05).

15 Unless the court has received a written objection to entry of an order granting plaintiff's motion for
16 additur in the sum of \$170,802, on or before July 27, 2005 (reserving defendant's exception to the court's
17 ruling that plaintiff is entitled to adverse tax consequences), such an order will be entered without further
18 notice.
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21 July 14, 2005

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23 /s/ J. Kelley Arnold
24 J. Kelley Arnold, U.S. Magistrate Judge
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